



City of Rockville

MEMORANDUM

May 20, 2009

TO: Planning Commission

FROM: Cas Chasten, Planner III

SUBJECT: Request to Modify a Condition of Approval for Use Permit USE2009-00712
Chabad Israeli Orthodox Synagogue, 216 Rollins Avenue

Background

At its November 5, 2008 meeting, the City of Rockville Planning Commission considered and voted to approve the referenced application and accompanying site use proposal, subject to certain conditions. Commission approval allows for the formal establishment of the religious institutional use at the referenced location. The applicant affirmed in testimony provided at the Planning Commission meeting that the dwelling had been used as a synagogue for the past several years, without use permit approval. Thus, in accordance with all of the information considered by the Planning Commission, use permit approval allows for the single family detached dwelling to be formally converted and used for the religious purposes as described in the application as submitted.

Although religious institutional uses are permitted within the respective R-75 (single family detached, residential) zone, in order for the subject property to be used and the dwelling converted from residential to institutional use, the applicant was required to file and be granted use permit approval. Due to concerns raised by a number of persons identifying themselves as community residents, the Commission heard a great deal of testimony on whether persons who attend services and other activities at the synagogue drove motor vehicles. The applicant affirmed in its use permit proposal and at the Commission's meeting that the religious order is orthodox in its teachings and beliefs and as such, members who attend services do not and will not drive motor vehicles to the site, when attending religious services.

In its approval of Use Permit USE2009-00712, the Planning Commission imposed a number of conditions of approval that the applicant must satisfy and/or comply with, in order to formally establish and operate the use as proposed (See Attached).

Request

The applicant submits the attached request, asking that the Planning Commission amend the following condition of approval imposed under its approval of the subject use permit:

3. The building and site must be brought into full compliance with all applicable building, fire and life safety codes, prior to full use and occupancy as a religious institution, regardless of whether the structure is also used as a residence.

The applicant must apply, within 6 months of the issuance of the use permit, and then obtain appropriate building permits to implement any/all building and site improvements needed to bring the property into full compliance with all applicable code requirements, for assembly use. The applicant must file and obtain an occupancy permit for the proposed synagogue, prior to full use of the site for said purposes.

The applicant is requesting that the noted condition's requirement that "the applicant must apply, within six (6) months of the issuance of the use permit, and then obtain appropriated building permits".... be amended to allow the applicant additional time to apply for said permits. The applicant requests the Planning Commission amend the specified time frame for applying for the needed permits. The added time is requested so that the applicant may address (collectively) conditions associated with the synagogue as well as those that might be associated with its pending special exception (SPX2008-00375), i.e., the request to establish and operate a child care center.

The attached letter of request is submitted for the Commission's consideration.

Staff Recommendation

To date, the applicant has not specified a timeframe for the extension. Staff is concerned that an extension will prolong the operation of the synagogue in a structure that has not fulfilled the requirements of the Planning Commission's approval. The applicant has had plenty of time to apply for the necessary permits, which is all that was required to be done by June 12, 2009. Staff does not support the modification request.

Attachments

1. Letter dated May 18, 2009, from Chabad Israeli Center
2. Use Permit USE2009-00712 Approval letter dated January 12, 2009

/cdc



Chabad Israeli Center

מרכז דוברי עברית

May 18, 2009

Mr. R. James Wasilak, AICP
Chief of Planning
City of Rockville
111 Maryland Avenue
Rockville, MD 20850

Re: Use Permit Application USE2009-00712

Dear Mr. Wasilak:

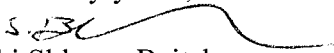
At its November 5th 2008 meeting, the City of Rockville Planning Commission approved the subject application for a synagogue USE Permit. The letter notifying Chabad of the approval and the accompanying conditions was dated December 12, 2008. Condition #3 on Page 2 states, in part, "The applicant must apply, within 6 months of the issuance of the use permit, and then obtain appropriate building permits to implement any/all building and site improvement needed to bring the property into full compliance...." .

On Page 3 following condition #7 the letter states: Section 25-193(d) of the Ordinance requires **construction or operation of the proposed site use must commence within two (2) years of the Commission's approval as set force in this letter or the use permit becomes void.**"

In July 2008 Chabad Israeli Orthodox Synagogue applied for a Special Exception to operate a small day care center in its synagogue located at 216 Rollins Avenue, Rockville. Chabad had a license and operated a home day care for up to 8 children in the same location. Even though the synagogue was in operation for 4 1/2 years the City required (and rightly so) first to obtain a synagogue use permit, (something Chabad was not aware of). Chabad intends to comply with all the conditions set forth by the Planning Commission, however, due to the current state of the economy, Chabad requests to delay the permit application until it receives the condition associated with the Special Exception application. The Federal government approved a very small grant to Chabad and we would like to deal with construction only once (and so do the neighbors).

We kindly ask that you notify the Planning Commission of our intentions and request.

Respectfully yours,


Rabbi Shlomo Beitsh



City of Rockville
111 Maryland Avenue
Rockville, Maryland
20850-2364
www.rockvillemd.gov

Community Planning and
Development Services

240-314-8200
TTY 240-314-8137
FAX 240-314-8210

Historic Preservation Office

240-314-8230

Inspection Services Division

240-314-8240

Long Range Planning
Division

240-314-8200

Planning Division

240-314-8220

Revitalization/Housing Division

240-314-8200

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Paul T. Glasgow

December 12, 2008

Rabbi Shlomo Beitsh
Chabad Israeli Orthodox Synagogue
216 Rollins Avenue
Rockville Maryland 20850

Re: Use Permit Application USE2009-00712

Dear Rabbi Beitsh:

At its November 5th 2008 meeting, the City of Rockville Planning Commission considered and voted to approve the referenced application and accompanying site use proposal, subject to certain conditions. Commission approval allows for the formal establishment of the referenced religious institutional use at the subject location. The applicant affirmed in testimony provided at the Planning Commission meeting that the dwelling had been used as a synagogue for the past several years, without use permit approval. Hence, in accordance with all of the information considered by the Planning Commission, use permit approval now allows for the single family detached dwelling to be formally converted and used for the religious purposes as described in the application as submitted.

Based on information provided at the Commission's meeting, the synagogue will operate as follows: a) Fridays - 6:00 p.m. - 7:00 p.m. (Fall/Winter months) and 7:30 p.m. - 8:30 p.m. (Spring/Summer months); b) Saturdays - 9:00 a.m. - 12:30 p.m. (morning services), 5:00 p.m. - 6:00 p.m. (Fall/Winter months), and 7:00 p.m. - 8:00 p.m. (Spring/Summer months); and c) Religious Holidays - 9:00 a.m. - 12:30 p.m. Under the subject request, the synagogue and its associated activities would take place on the ground level of the dwelling/building structure.

Although religious institutional uses are permitted within the respective R-75 (single family detached, residential) zone, in order for the subject property to be used and the dwelling converted from residential to institutional use, the applicant was required to file and be granted use permit approval. The applicant affirmed in the application and at the Commission meeting that the religious order is orthodox in its teachings and beliefs and as such, members who attend services do not and will not drive motor vehicles to the site, when attending religious services. Staff noted that since the subsequent filing of the use permit a number of neighbors and/or persons who reside in the community provided statements and other information noting that they routinely observed members of the synagogue driving motor vehicles to the site when attending services and other related religious activities. At the meeting, several persons identifying themselves as neighbors and members of the community provided testimony about their concerns and opposition to the use permit proposal to formally convert the dwelling for continued use as a religious institution.

The Planning Commission voted to approve the use permit and accompanying site use proposal subject to the following conditions:

1. Use and operation of the synagogue will be limited to religious services on the Sabbath and principal religious holidays (Ref. Section 25-395(8) of the Zoning Ordinance). Note, only two (2) off-street parking spaces must be provided with the establishment of the synagogue, since the applicant has represented in its application request that its members walk and do not drive motor vehicles to the site in order to attend religious services, based on religious belief.

2. Use and operation of the synagogue must be in strict accordance with provisions of Section 25-395(8) of the Zoning Ordinance and as described in the applicant's "transportation report" submitted with the use permit application.

3. The building and site must be brought into full compliance with all applicable building, fire and life safety codes, prior to full use and occupancy as a religious institution, regardless of whether the structure is also used as a residence.

The applicant must apply, within 6 months of the issuance of the use permit, and then obtain appropriate building permits to implement any/all building and site improvements needed to bring the property into full compliance with all applicable code requirements, for assembly use. The applicant must file and obtain an occupancy permit for the proposed synagogue, prior to full use of the site for said purposes.

4. A combined NRI/FSD and Tree Save Plan have been approved for the proposed sidewalk between the front and rear yards. The Tree Save Plan is for protection of significant trees only; no trees are shown to be removed for the sidewalk construction. However, this plan must be amended if additional exterior work is required such as construction of exit stairs as this would impact significant trees. A Forestry permit (FTP) must be obtained prior to the commencement of sidewalk construction. Conditions for issuance of the Forestry permit are:

a. Submittal of a completed Forestry permit, application and appropriate fee to the City Forester's office.

b. If applicable, an amended Tree Save Plan shall be submitted along with a completed application, review fee and plan showing any additional exterior work not already shown on the approved Tree Save Plan that is required to obtain an Occupancy Permit (OCC) for the synagogue.

5. That this Use Permit be granted to Chabad Israeli Orthodox Synagogue only for its limited use as a synagogue.

6. That appropriate permits be obtained for any associated signs.

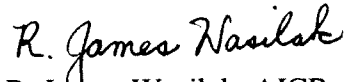
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December 12, 2008
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7. Chabad Israeli Orthodox Synagogue is encouraged to work with the neighborhood to try to reach an accommodation concerning the ambient noise level of all synagogue operations.

Section 25-193(d) of the Ordinance requires **construction or operation of the proposed site use must commence within two (2) years of the Commission's approval as set forth in this letter or the use permit becomes void.** However, if the applicant can show good cause, the Planning Commission may grant a total of two (2) time extensions, each not to exceed one (1) year in duration respectively. The applicant is advised that time extension requests are not automatically approved and sufficient justification is required in order to grant time extension requests.

Any person aggrieved by this decision of the Planning Commission may appeal the same to the Circuit Court for Montgomery County. Such appeal shall be taken according to the Maryland Rules as set forth in Title 7, Chapter 200.

By Direction of the City of Rockville
Planning Commission



R. James Wasilak, AICP
Chief of Planning

/cdc

cc: Board of Appeals
Planning Commission
Charles Baker, Chief of Inspection Services
Elise Cary, Assistant City Forester – R&P
Cas Chasten, Planner III - CPDS ✓
Rocio Estrada, Neighborhood Resources Coordinator
Matthew Shanks, Fire Code Inspector – ISD
Rebecca Torma, Transportation Planner II - DPW
Mark Wessel, Civil Engineer III – DPW

P.S. In accordance with the Commission's approval, the applicant must read, sign, and return a copy of the statement of acknowledgement listed on the following page:

Rabbi Shlomo Beitsh
December 12, 2008
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Note: Building and/or occupancy permits will be issued only when all of the noted conditions of approval have been met/satisfied and a copy of the following acknowledgement has been signed/executed by the applicant and returned to the City's Planning Division office. The applicant is advised that the Commission's approval does not constitute approval by any agency having jurisdiction over the site use and/or proposed site development.

I ACKNOWLEDGE RECEIPT OF USE PERMIT USE2009-00712 AND AGREE TO FULLY COMPLY WITH ALL CONDITIONS UPON WHICH APPROVAL WAS GRANTED. I FURTHER ACKNOWLEDGE THAT FAILURE TO COMPLY WITH THESE CONDITIONS MAY CAUSE APPROVAL TO BE REVOKED BY THE PLANNING COMMISSION.

(Applicant's Signature)

(Please Print – Applicant's Name)